

3300 North Central Avenue, Suite 1800
Phoenix, AZ 85012-2518
TEL 602.798.5400
FAX 602.798.5595
www.ballardspahr.com

ORIGINAL

RECEIVED

2009 OCT 23 P 1:08

AZ CORP COMMISSION
DOCKET CONTROL



0000104174

Matthew R. Henriksen
Direct: 602.798.5404
Fax: 602.997.3198
henriksenm@ballardspahr.com

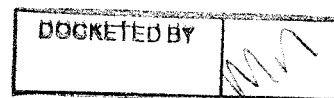
October 23, 2009

Via Hand Delivery

Docket Control Center
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007-2996

Arizona Corporation Commission
DOCKETED

OCT 23 2009



Re: *Joint Application of CIMCO Communications, Inc. and Comcast Phone of Arizona, LLC
for Approval of the Transfer of Customer Base, Docket Nos. T-03434A-09-0477 and
T-04293A-09-0477*

Dear Sir or Madam:

On October 6, 2009, CIMCO Communications, Inc. ("CIMCO") and Comcast Phone of Arizona, LLC ("Comcast") (together, "Applicants") filed a Joint Application for Approval of the Transfer of Customer Base ("Application") with the Arizona Corporation Commission ("ACC" or the "Commission").

By this letter, Applicants respectfully request that the Commission grant a waiver of A.A.C. R14-2-1107, which governs a telecommunications company's discontinuance of competitive local exchange or interexchange services in the state. Applicants do not believe that the discontinuance rule applies to this proceeding because it involves the purchase of CIMCO's assets (*i.e.*, its customers) by Comcast; therefore, service to the acquired customers is not being discontinued.¹ Current CIMCO customers will receive at least 30 days notice of the transaction as required by the Federal Communications Commission's customer migration rules.² It would be confusing for customers to *also* receive a notice regarding a CIMCO discontinuance of service or for the planned customer transfer notice to include a discussion regarding a discontinuance since no affected customer will be discontinued as a result of the transaction. *See* Decision No. 70706 (waiving discontinuance rules in transfer of control case).

¹ Commission Staff has previously come to this same conclusion. *See* Docket No. T-03761A-04-0710, Addendum to Staff Report (Dec. 27, 2004) (stating "Staff does not believe that the transfer of certain customers qualifies as a discontinuance of service or an abandonment of any portion of its service area. Therefore, Staff does not believe that AAC R14-2-1107 applies").

² Applicants are also seeking a waiver of the Commission's slamming rules, A.A.C. R14-2-1901 et seq., that would otherwise require Comcast to obtain the authorization and verification of each of CIMCO's customers prior to transitioning their services to Comcast.

October 23, 2009

Page 2

In the event that the Commission does not believe that a waiver of the rule in its entirety is appropriate, Applicants respectfully request that the Commission grant a waiver of A.A.C. R14-2-1107(B) which requires a telecommunications company providing competitive local exchange or interexchange service to publish legal notice of an application to discontinue or abandon services in counties affected by the application within 20 days of the Application. As stated in the Application, Comcast Phone of Arizona, LLC will acquire twelve (12) business customer accounts of CIMCO in the state of Arizona, and those customers will continue to receive high quality telecommunications services at the same rates, terms and conditions as currently provided by CIMCO. Written notice of this transaction and of the customer base transfer will be provided to CIMCO's Arizona customers via First Class mail at least 30 days prior to the transfer. *See Application, Exhibit B.* Published notice to the entire community is therefore unnecessary. The Commission's waiver of R14-2-1107(B) will serve the public interest and Applicants will provide the affected customers with ample notice of the transaction.

As noted in the Application, Applicants are in the process of applying for approval of the transaction in other states and, as a result, it is in the public interest for the Commission to approve the Application on or before December 1, 2009, to allow Applicants to consummate the transaction.

Respectfully submitted,



Matthew R. Henriksen

cc: Pamela Genung
Carmen Madrid